

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

ROGER BUEHL,

Plaintiff,

v.

WEXFORD HEALTH SOURCES, INC.,
et al.,

Defendants.

CIVIL ACTION NO. 3:16-cv-00822

(JUDGE CAPUTO)

(MAGISTRATE JUDGE
SAPORITO)

ORDER

NOW, this 7th day of March, 2017, **IT IS HEREBY ORDERED** that Magistrate Judge Saporito's Report and Recommendation (Doc. 10) is **ADOPTED in part and REJECTED in part** as follows:

- (1) The Court **ADOPTS** the Magistrate Judge's recommendation to **DISMISS without prejudice** Count I of Plaintiff's SAC (Doc. 1-1) as to Defendants Dr. Harewood, Oppman, Kuras, and Stanishefski;
- (2) The Court **REJECTS** the Magistrate Judge's recommendation to dismiss Count I as to Defendant Dr. Pandya;
- (3) The Court **REJECTS as moot** the Magistrate Judge's recommendation with respect to the § 1983 liability of Defendants Wexford Health Sources, Inc. and Correct Care Solution, LLC;
- (4) The Court **REJECTS** the Magistrate Judge's recommendation to decline to exercise supplemental jurisdiction over Plaintiff's state-law claims pursuant to 28 U.S.C. § 1337(c)(3);
- (5) Plaintiff shall have **twenty-one (21) days** from the date of entry of this Order to file an amended complaint to properly plead an Eighth Amendment claim against Defendants Dr. Harewood, Oppman, Kuras, and Stanishefski. Otherwise, these claims will be **dismissed with prejudice**; and

(6) The action is **RECOMMITTED** to Magistrate Judge Saporito for further proceedings.

/s/ A. Richard Caputo
A. Richard Caputo
United States District Judge